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FISCAL IMPACT REPORT

SPONSOR: Boykin DATE TYPED: 03/10/03 HB 738/aHBIC
 SHORT TITLE: Chiropractic Physician Licensing SB _____
 ANALYST: Maloy

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			NFI		

(Parenthesis () Indicate Expenditure Decreases)

Duplicates: SB 657

SOURCES OF INFORMATION

Regulation and Licensing Department (RLD)
 New Mexico Board of Pharmacy (BOP)

SUMMARY

Synopsis of HBIC Amendment

The House Business and Industries Committee has amended HB 433 as follows:

1. The first provision of the amendment appears to want to clearly exclude “invasive procedures” from the scope practice for chiropractic medicine. However, the amendment references a comma at page 3, line 15, behind which the exclusion language would be placed. There is no comma in this line, and therefore, it is difficult to understand where the exclusion language is to be placed.
2. The second provision of the amendment excludes “operative procedures, surgery and prescription of use of controlled or dangerous drugs” from the scope of practice for chiropractic medicine.
3. The amendment strikes language expressly stating that “only a licensed chiropractic physician may render chiropractic care, adjustments or spinal manipulation for the purpose of reducing, removing or correcting a vertebral subluxation.”

4. The amendment strikes reference to providing “primary care” in the right of practice statement for chiropractic physicians. This is for clarification, since “primary care” typically is understood to mean an entirely different practice of medicine.
5. The amendment adds a new provision outlining the services not subject to regulation via the Chiropractic Physician Practice Act. The new provision states that services provided as part of the routine scope of practice for the following types of licensed professionals *do not require a separate chiropractic license for the services that overlap with the defined practice of chiropractic medicine*:
 - Medicine;
 - Osteopathy;
 - Dentistry;
 - Podiatry;
 - Nursing;
 - Optometry;
 - Pharmacy;
 - Psychology;
 - Acupuncture and oriental medicine;
 - Physical therapy; or
 - Veterinary medicine.

Synopsis of Original Bill

The purpose of House Bill 738 is to amend the Chiropractic Physician Practice Act to clarify licensing requirements, expand privileges and increase penalties.

1. Clarifying licensing requirements: The current requirements for licensure by endorsement are unclear. The changes proposed by the bill clarify the licensure requirements and also follow the guidelines recommended by the Federation of Chiropractic Licensing Boards to comply with most other states. The process will be standardized and less complex for licensees to comprehend the endorsement requirement, and reduce the eligibility requirements to solicit more licensees to be able to obtain a license without examination.
2. Expand privileges: The bill proposes substantial changes to elaborate on the scope of practice and the limitation of privileges for chiropractic physicians.
3. Increase Penalties: The increase of penalties is related to practicing chiropractic without a license. The increase entails changing the penalty for this violation from a misdemeanor to a fourth degree felony and increasing fines. It is essential that these changes become effective to allow the board jurisdiction over unlicensed activity.

Compliance and consistency with the Uniform Licensing Act is being clarified within these statutes to provide the board with the authority to take action on a licensee for the defined causes. It is imperative that the appropriate language is specific in dealing with disciplinary cases.

Significant Issues

The changes in the scope of practice and definitions are significant. They will provide assurance that the scope of practice is clear and easy to interpret for prospective licensees, the public and legal counsel. These changes will eliminate exploitation of the chiropractic profession by clarifying and defining the privileges in the statute; provide consistency with credentialing and procedures related to medicare and medicaid; establish minimum understanding of the chiropractic physician responsibilities; clarify the extent of privileges; and define boundary lines between many alternative medicine health care boards.

The existing endorsement requirement is not clear which creates a struggle for interpretation of the requirements—the changes proposed by this bill clarify the requirements. All other changes will “update” unclear and outdated language to be consistent with the activities of the profession, the current law and other similar professions regulated by state government under the New Mexico Statute Authority.

The RLD believes this law is necessary in the board’s mission to protect the public, to provide quality service to constituents and to permit greater efficiency in the operation of the board.

OTHER SUBSTANTIVE ISSUES

The Board of Pharmacy (BOP) believes this bill gives Chiropractors the authority to order/prescribe prescription drugs including Controlled Substances. In order to prescribe controlled substances, chiropractors needs to register with the Drug Enforcement Administration (DEA) and be added to the definitions for “Practitioners” in both the NM Drug, Device and Cosmetic Act (authority for prescribing dangerous/prescription drugs) and the NM Controlled Substances Act (for ordering/prescribing Controlled Substances).

By clarifying that the bill does not allow prescription of controlled substances, chiropractors would not be required to license with the Board of Pharmacy or the DEA. See suggested amendment below.

AMENDMENTS

Suggested by the BOP:

Page 3, line 10, after “includes” insert the words “prescribing or”

Page 3, line 17, after “certification” insert the words “except any such use or treatment shall not include controlled substances.”

SM/prr